

1 EDMUND G. BROWN, JR, Attorney General
of the State of California
2 KIM M. SETTLES, State Bar No. 116945
Deputy Attorney General
3 California Department of Justice
1515 Clay Street, 20th Floor
4 P. O. Box 70550
Oakland, CA 94612-0550
5 Telephone: (510) 622-2138
Facsimile: (510) 622-2270

6 Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 IVAN GUTZALENKO
836-B Southampton Road, #176
13 Benicia, CA 94510

14 Registered Nurse License No. 528183

15 Respondent.
16

Case No. 2008-100

ACCUSATION

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about December 2, 1996, the Board of Registered Nursing
23 issued Registered Nurse License No. 528183 to IVAN GUTZALENKO (Respondent).
24 The Registered Nurse License was in full force and effect at all times relevant to the charges
25 brought herein and will expire on June 30, 2008, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing
28 (Board), under the authority of the following sections of the Business and Professions Code (Code).

1 4. Section 2750 of the Code provides, in pertinent part, that the Board may
2 take disciplinary action against any licensee, including a licensee holding a temporary or inactive
3 license, for any reason provided in the Nursing Practice Act.

4 5. Section 2761(a) of the Code provides, in pertinent part, that the Board
5 may take disciplinary action against a certified or licensed nurse or deny an application for
6 a certificate or license for unprofessional conduct, which includes, but is not limited to certain
7 enumerated conduct.

8 6. Section 2761(f) of the Code provides, in pertinent part, that conviction
9 of a felony or of any offense, substantially related to the qualifications, functions, and duties of
10 a registered nurse, constitutes grounds for disciplinary action.

11 7. Section 125.3 of the Code provides, in pertinent part, that the Board may
12 request the administrative law judge to direct a licensee found to have committed a violation or
13 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
14 and enforcement of the case.

15 8. Section 490 of the Code provides, in pertinent part, that the Board may
16 suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the
17 crime is substantially related to the qualifications, functions, or duties of the business or
18 profession for which the licensee was issued. A conviction within the meaning of this section
19 means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

20 **CAUSE FOR DISCIPLINE**
21 **(Criminal Convictions)**
22 **(Bus. & Prof. Code §2761(f))**

23 9. Respondent is subject to discipline under Code sections 2761(f) and 490 in
24 that on or about September 11, 2006, he was convicted by the court on his plea of no contest, of
25 four counts of violating Penal Code section 12303 (possessing destructive device), one count
26 of violating Penal Code section 12220(a) (possessing machine gun), and one count of violating
27 Penal Code section 12280 (possessing assault weapon) in Contra Costa County Superior Court
28 (Walnut Creek), case number 126115-5, entitled *People v. Ivan Gutzalenko*. Said crimes are
substantially related to the qualifications, functions, and duties of a registered nurse.

The circumstances of the crimes are that on or about January 13, 2006, respondent did unlawfully possess, the following at his residence: four destructive devices that were not fixed ammunition greater than .60 caliber, a machine gun, and an assault weapon.

On or about September 11, 2006, pursuant to said convictions, respondent was sentenced as follows: probation for three years, under terms and conditions, which included, but were not limited to: one year in prison, payment of fines and restitution.

PRAAYER

WHEREFORE, complainant requests that a hearing be held on the matters herein alleged and that, following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License No. 528183 issued to IVAN GUTZALENKO;
2. Ordering IVAN GUTZALENKO to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as may be deemed necessary or proper.

DATED: 9/18/07

Eileen Hocking for
RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

Complainant